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Chapter 11 trustee

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF CALIFORNIA
[Sacramento Division]

In re:

PAUL SANDNER MOLLER &
ROSA MARIA MOLLER,

Debtors.

Case No. 09-29936-C-11
Docket Control No. LAZ-1

Continued Hearing:

Date: November 22, 2010

Time: 2:00 p.m.

Dept: C (Courtroom 35)

Hon. Christopher M. Klein

**STIPULATION FOR ADEQUATE PROTECTION AND RESOLUTION
OF MOTION FOR RELIEF FROM THE AUTOMATIC STAY**

Through counsel, U.S. Bank National Association, N.D. ("US Bank"), Paul Moller and Rosa Moller (the "Debtors"), and Jon Tesar (the "Trustee"), as trustee of the above-captioned bankruptcy estate of the Debtors, agree as follows:

I. RECITALS

A. On May 18, 2009 (the "Petition Date"), the Debtors filed a joint voluntary petition for relief under chapter 11 of the Bankruptcy Code.

B. By way of an order entered on March 29, 2010, the Trustee's appointment as chapter 11 trustee in the Debtors' case was approved. The Trustee continues to serve in that capacity.

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1 C. Among the assets of the Debtors' bankruptcy estate is the real property
2 commonly known as 9350 Curry Road, Dixon, California (the "Property"). As stated in
3 the Debtors' bankruptcy schedules, there are four deeds of trust against the Property, in
4 favor of the following parties and in the following order of priority:

- 5 (1) Morgan Stanley;
- 6 (2) US Bank;
- 7 (3) Bay Area Financial Corp. ("BAFC");
- 8 (4) Victoria Schlechter.

9 D. As of the Petition Date and continuing to date, the Debtors had not repaid
10 the monetary obligations owed to the parties identified in the previous paragraph.

11 E. As of the Petition Date and continuing to date, the Debtors have used the
12 Property as their residence. The Trustee is investigating whether the Property has value
13 that can be recovered by the bankruptcy estate.

14 F. On November 2, 2009, US Bank filed its Motion for Relief From the
15 Automatic Stay, bearing Docket Control No. LAZ-1 (the "Motion"). By way of the
16 Motion, US Bank seeks relief from the automatic stay to proceed against the Property
17 under the terms of its deed of trust and applicable nonbankruptcy law.

18 G. The parties have reached terms under which BAFC shall receive periodic
19 payments to protect its interest, and which shall govern the parties' rights should a
20 default in such payments occur.

21 II. AGREEMENT

22 1. Starting on June 15, 2010 and continuing no later than the fifteenth day
23 of each calendar month following, the Debtors shall pay to the Trustee the sum of no
24 less than \$2,256.54. The Debtors represent that such payments shall be derived from
25 their retirement income.

26 2. Starting on the day after entry of the order approving this Stipulation, and
27 continuing no later than ten (10) days following the beginning of each calendar month
28 thereafter, the Trustee shall make monthly adequate protection payments to Morgan

1 Stanley in the amount of \$2,256.54 and US Bank in the amount of \$1,504.48. The
2 Trustee shall mail payments to Morgan Stanley at the following address, in connection
3 with loan no. *****0828: Morgan Stanley Credit Corp., 4708 Mercantile Drive, Fort
4 Worth, TX 76137. The Trustee shall mail payments to US Bank at the following
5 address, in connection with loan no. *****07388991: U.S. Bank, N.A., P.O. Box
6 5229, Cincinnati, OH 45201. Funds for these payments shall be derived from the
7 funds described in paragraph 1 above and the balance from unencumbered funds of the
8 bankruptcy estate in the Trustee's possession and control. Should the Debtors fail
9 timely to make the full amount of any monthly payment described in paragraph 1
10 above, the Trustee shall not be obligated to make the payments to Morgan Stanley or
11 US Bank described in this paragraph.

12 3. Starting on the day after entry of the order approving this Stipulation, and
13 continuing no later than ten (10) days following the beginning of each calendar month
14 thereafter, the Debtors shall make monthly adequate protection payments directly to
15 BAFC in the amount of \$2,292.60, so as to be received by BAFC on or before the
16 tenth (10th) day of each month. The Debtors represent that such payments to BAFC
17 shall be derived from funds to be advanced by a family member. The Debtors agree
18 and represent that such funds shall not constitute a post-petition loan to the Debtors'
19 bankruptcy estate and that the estate shall not be liable for repayment of any such
20 funds.

21 4. The Trustee shall provide to BAFC, through counsel identified below,
22 written evidence of each payment made to Morgan Stanley and US Bank, no later than
23 ten (10) days following the beginning of each month of such payment.

24 5. In the event of non-payment of any adequate protection payment
25 described herein to BAFC or US Bank by the tenth (10th) day of any month, US Bank
26 shall transmit a Notice of Default to the Debtors by fax at _____ and to the
27 Trustee by e-mail at jontesar@msn.com, and by fax to their respective counsel
28 identified below. In the event that any late payments are not cured within ten (10) days

1 of service of the Notice of Default, the Bankruptcy Court shall be authorized to grant full
2 and immediate relief from the automatic stay in favor of US Bank, after hearing on
3 notice to parties entitled to same by applicable rules, on as little as ten (10) days'
4 notice. The order approving this Stipulation shall provide for such shortened notice.

5 6. This Stipulation shall be subject to the approval of the Bankruptcy Court.

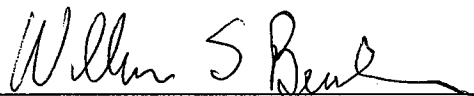
6 Dated: _____
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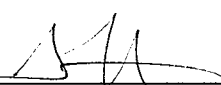
13 Dated: Nov 22, 2010
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